

HAMPTON PLANNING BOARD – MINUTES
March 7, 2007– 7:00 PM

PRESENT: Tracy Emerick, Chair
Robert Viviano, Vice-Chair
Fran McMahon, Alternate
Jim Workman, Selectman Member
Keith Lessard
Tom Higgins
Tom Gillick
Bill Bilodeau, Alternate
James Steffen, Town Planner
ABSENT: Ken Sakurai

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members and leading the Pledge of Allegiance to the flag.

I. WITHDRAWALS

7-03) Won McGrath & Won Choe
Special Permit to Impact Wetlands Conservation District at
3 Gale Road
Map 23 Lot 4-1
Owner of Record: William J Nyhan

This application was withdrawn by the applicant.

II. ATTENDING TO BE HEARD

7-19) Hector & Ellen Zumbado
Change of Use from Residential to Business/Professional Office at
433-435 Lafayette Road
Map 160 Lot 18
Owner of Record: 435 Hampton LLC

Hector Zumbado presented this request. He indicated that relief from the parking requirements was granted by Zoning Board of Adjustment in December. He stated the building will be refurbished. He has been in contact with the Fire Department and he intends to install a sprinkler system. A handicap ramp will also will be constructed to make the building ADA compliant.

Mr. Gillick noted that variances were not listed on the site plan.

MOVED By Mr. Gillick to grant the change of use from residential to a business/professional office at 433-435 Lafayette Road, Map 160 Lot 18, subject to inclusion of the granted variances on the site plan.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 7-22) Jennifer Truesdale
Change of Use from Ice Cream Shop to Ice Cream Shop and Office at
65 Lafayette Road
Map 236 Lot 1
Owner of Record: Lafayette Road Realty Trust

Jennifer Truesdale presented this request. She indicated there is a second floor in the building, which they would like to use as offices for the owners' business affairs. The space will not be rented out to others.

MOVED By Mr. Gillick to grant the change of use from ice cream shop to ice cream shop and office at 65 Lafayette Road, Map 236 Lot 1.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

III. NEW PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

- 7-13) James & Candice Stellmach
Special Permit to Impact Wetlands Conservation District to demolish
existing 2-family structure and build new single family home at
488 High Street
Map 150 Lot 59
Owner of Record: James & Candice Stellmach

Candice Stellmach, Owner, and Ray Lavin, Building Contractor, presented this application. Mrs. Stellmach described the project. The new construction will be a replica of the old structure, while meeting current setback requirements. She indicated 160 square feet of wetland buffer would be impacted. There will also be an additional temporary buffer impact during the foundation excavation. There will be no change in elevation in the buffer. They cannot determine landscaping design at this time because of the granite shelf supporting the current house.

The Conservation Commission had some concerns with the change in elevation of the parking area, grading in the buffer, and the absence of a planting plan. The overall grade change is approximately 8-9% now and they have no plan to change that.

Mrs. Stellmach indicated that an amended plan was filed last Friday, eliminating the references to re-grading in the wetland buffer.

BOARD

Mr. Gillick noted that the Conservation Commission's letter indicates that the demolition should be allowed.

There was discussion of the nature of the re-grading anticipated and the planting plan.

There was discussion of whether the Board was being asked tonight to approve just a demolition plan or a demolition and construction plan. They are asking for approval of both.

PUBLIC

Peter Tilton, Conservation Commission, stated that the Commission's main concern was fill in the wetland buffer. He wanted to be sure the applicant understands she will need to go back to the Conservation Commission if she does any fill.

BOARD

Mr. Lessard reviewed what had been discussed and the stated intention that there will be no permanent grading done.

MOVED By Mr. Lessard to grant the special permit with the understanding that a new Special Permit will be required if the applicant decides to do any permanent grading in the wetlands buffer. This special permit is subject to the stipulations as stated in the Conservation Commission's memo of March 5, 2007.

SECOND By Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 7-15) North Beach Investments Inc
Site Plan Review for construction of 6 condominium tourist cabins with pool at
76 Kings Highway
Map 196 Lot 25
Waiver from Site Plan Regulations, Section VII.D – Storm Drainage Plan
Owner of Record: Raymond & Marie Gordon
- 7-16) North Beach Investments Inc
Special Permit to Impact Wetlands Conservation District to construct 6 tourist cabins with pool at
76 Kings Highway
Map 196 Lot 25
Owner of Record: Raymond & Marie Gordon

Mr. Lessard recused himself for these applications.

Stephen Ells, Attorney, and Randy Radkay, Applicant, presented this application. Mr. Ells described the proposed project. The proposed plan contemplates a sealed surface area of 21% of the lot. Adequate parking will be provided – with 10 spaces provided where six are required. The lot is flat and slopes to the rear to Meadow Pond. The

encroachment into the wetlands buffer will be 63 square feet. In mitigation, the applicant proposes to eliminate 355 square feet of encroachment. They have been to the Conservation Commission, which does not oppose the Special Permit. Eco-pavers will be used for the parking area. The cabins will be 16 feet square with a deck.

Mr. Radkay stated the height of the buildings would be 21 feet. The ladders to the storage areas will not be allowed by the Building Inspector. These will be replaced with spiral staircases. He indicated there would be a small kitchen in the units.

BOARD

Mr. Higgins indicated he didn't understand why no variances were needed for square footage per dwelling unit and number of units in a Residence B zone.. The question is whether or not these are dwelling units. Mr. Radkay indicated these are not intended to be dwelling units. They are intended to be year-round tourist cabins. If the oven planned for the kitchen will make it a dwelling unit, he will not put in the ovens.

Mr. Higgins asked if the designation as a tourist cabin would be stated either as a deed restriction or in the condominium documents. He was concerned about adding kitchens and/or second stories at a later date. He was also concerned how the lot would be considered conforming with six separate units with six owners.

Mr. Gillick expressed his concern that drainage will continue to go into the marsh. He is concerned that, since automobiles will be on the property, there will be unacceptable material draining into the marsh. He feels a drainage plan is needed. Mr. Radkay rebutted. He indicated they are taking steps to slow the water down before it reaches the marsh. He doesn't believe that catch basins will be effective because of the high water table.

Mr. Gillick asked if Ambit Engineering could review the proposed drainage system because of this concerns.

Mr. Workman asked where the pool would drain to. Mr. Radkay indicated the pool would be a sealed system.

PUBLIC

Carol Finn, 80 Kings Highway, asked who currently owned the property, since both of the Owners of Record are deceased. Mr. Ells said the Gordon estate is currently in probate, and Jean Shea and Patricia Hines are serving as administratrixes of the estate. Ms. Finn said during rain it is necessary to wear boots on this property.

Jeff Merrill, Attorney, and Jackie Garrity, 8 Seventh Street, spoke to the requested waiver for the drainage plan. They disagree with granting the waiver and provided the Board with a written list of reasons. There is currently a flooding problem at the site. With inadequate design, the problem could be made worse. The lot is in a "Special Flood

Hazard Area” (as defined in Section 2.4 of the Zoning Ordinance). They believe this project will increase flood levels, and, therefore, requires a variance from Section 2.4.2 through the Zoning Board of Adjustment. A portion of the lot is in the Wetland Conservation District, and, to protect wetlands, they ask the Board to request a drainage plan.

Adjacent to this lot is another lot owned by the same people. He asked that the potential development of that lot be taken into consideration. Chairman Emerick indicated the Board couldn't do that. The board can address only what is before them without consideration of surrounding properties.

Mr. Merrill then indicated that the application is incomplete. There are no calculations for the drainage system. Missing from plan is the location of a solid waste disposal facility. There is no dumpster on the plan. There is no location, size or design for a sign.

He requests that the Board not grant the Special Permit because it is not necessary. The applicant can build 5 units, a shed and a pool and parking without a Special Permit. It is only the sixth unit that would be in the wetland buffer.

Mr. Merrill stated that traffic congestion is a problem today on Kings Highway. He believes that a traffic engineer should look at the plan. The parking plan appears to be unsafe because there are 10 access spots at a 90-degree angle from the traveled way. This will create a traffic hazard. Vehicles parking in the spots will need to swerve into traffic.

Mr. Higgins asked the angle of the Garrity's driveway. It is at a 90-degree angle.

Tom & Beth Woods, 7 Eighth Street, stated they do not understand what this project is. Chairman Emerick stated they would not be dwelling units. They are for transient use. Occupants cannot register vehicles or register to vote with this address. Mr. Woods asked if there would be a manager on site. They have a problem now with partying in vacation rental properties. There is heavy traffic now. Mrs. Woods said that when parking is put in, it would eliminate on-street parking for others. This will result in parking on the number streets. This has been a problem for emergency vehicles in the past.

Chairman Emerick said the Board would be sending plans out for departmental review to have these concerns looked at.

Mrs. Woods said they have no problem with a year-round residence, but tourist cabins will make the area more congested.

Mr. Woods stated he wished the developer would be considerate of people in the neighborhood. He is also concerned about barriers for the pool, where snow would be stored, and where trash would be stored.

Mr. Gillick noted that Kings Highway is the dividing line between the RA and RB zoning districts.

Mr. Steffen read the definition of “motel/tourist cabins” in the Zoning Ordinance.

Mike Finn, 80 Kings Highway, spoke to the parking problem. It is because of the bagel shop. This project will make the parking problem worse.

Peter Tilton, Conservation Commission, said the Commission was okay with the sealed surface involved, but they did have concerns about the drainage into the marsh. He hoped the Board would take that concern into consideration.

BOARD

Mr. Ells stated that there was no problem on The Conservation Commission’s request that Buffer markers be placed at the edge of the property where the buffer begins and along the sides of the shed behind the proposed pool.

He said what is being proposed isn’t the problem. It is the bagel shop and the trailer park that are there already.

Mr. Ells reiterated the ratio of sealed surface. He feels this is a low intensity use with very little sealed surface.

Mr. Radkay stated that before he came up with this plan, he looked at other possible uses of the site. He tried to come up with a project that blends in with the bagel store and the trailer park. This is his 8th or 9th project on Kings Highway. It will run in conjunction with the Ocean Club as a sort of “cabana extension” of the Ocean Club suites. It will be managed from the OC, and snow and trash removal will be handled from there.

Mr. Gillick asked if OC customers would be using the pool. They will not. He asked if there would be a fence around the pool. There will. Mr. Higgins indicated the Ocean Club office would provide the office for these units. He would like to be sure the Building Inspector and the Town Attorney are included in the Departmental review. The question to the Attorney would be whether this should be before the Board without a variance.

Chairman Emerick explained the process of accepting jurisdiction.

Mr. Steffen said there are other questions regarding the completeness of the application. Site Plan Regulations require parking to be paved, but that can be waived with reason. The Board needs to make a motion to waive the paving requirement. Also, the height of the buildings should be included on the site plan, as well as the height limit.

MOVED By Mr. Gillick to deny the request for a waiver from Site Plan Regulations, Section VII.D. – Storm Drainage Plan.

SECOND By Mr. Viviano

VOTE: 6-1-0 (Higgins)

MOTION PASSED

MOVED By Mr. Gillick to accept jurisdiction, send the application out for departmental review, including Town Counsel, the Building Inspector and the utilities, and request a drainage plan

SECOND By Mr. Viviano

VOTE: 6-1-0 (Higgins)

MOTION PASSED

Mr. Lessard returned to the Board.

- 7-18) Kevin Emery
Special Permit to Impact Wetlands Conservation District to enclose deck
at
16 Ross Avenue
Map 274 Lot 67
Owner of Record: Emery Family Trust

Kevin Emery, applicant, presented this application. He is proposing to put a roof and screened porch on the deck. They have agreed to move the shed out of the Wetlands Conservation District onto a paved driveway on the lot.

BOARD

Mr. Lessard asked if it will remain screened and not be enclosed as a living space. Mr. Emery said he agrees with the condition of never making this area living space.

PUBLIC

No comments

BOARD

MOVED By Mr. Lessard to grant the Special Permit to Impact the Wetlands Conservation District at 16 Ross Avenue, Map 274, Lot 67, subject to the conditions stated in the Conservation Commission letter of March 5, 2007 and the additional condition that the porch never be enclosed as living space.

SECOND By Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

- 7-20) Golden Corridor LLC
2-unit Condominium Conversion at
5A Ocean Boulevard
Map 295 Lot 66
Waiver from Site Plan Regulations, Section V.E (Detailed Plan)
Owner of Record: Golden Corridor LLC

Joe Coronati, Jones & Beach Engineers, presented this application. He described the history of the project. The units have underground parking. Entry is from Harbor Road. Buildings meet all Zoning Requirements and have received Certificates of Occupancy.

BOARD

Mr. Gillick asked if the parking spaces are designated for the owners and so marked. They are and they are so marked.

Mr. Lessard asked if the owners would be members of the clubhouse and the pool. Mr. Coronati is not sure, but believes that the requirement for membership is to have a slip at the marina. Essentially, 5 and 5A Ocean Boulevard is a stand-alone condominium association with its own documents.

PUBLIC

No comments

BOARD

Mr. Higgins asked about the history of the property.

MOVED By Mr. Gillick to grant a waiver from Site Plan Regulations, Section V.E (Detailed Plan) for this condominium conversion.

SECOND By Mr. Workman

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Gillick to grant the condominium conversion at 5A Ocean Boulevard, Map 295, Lot 66, subject to submission of a recordable Mylar, seven (7) copies of the final site plan and appropriate recording fees.

SECOND By Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

- 7-21) Golden Corridor LLC
 2-unit Condominium Conversion at
 5 Ocean Boulevard
 Map 298 Lot 1
 Waiver from Site Plan Regulations, Section V.E (Detailed Plan)
 Owner of Record: Golden Corridor LLC

Joe Coronati, Jones & Beach Engineers, presented this application. He described the differences between this building and the building discussed previously. Parking is accessed at the rear of the building.

BOARD

Mr. Gillick asked about an easement to access parking. Mr. Coronati said the easement is on the Hampton Harbor site plan. Mr. Gillick does not believe the Board can approve a plan that does not show how parking is legally accessed. A note is needed on the site plan to indicate how parking is accessed.

PUBLIC

Chairman Emerick indicated that there are two letters from members of the public speaking to the legality of the buildings and the setbacks. Mr. Gillick said that since building permits were issued, the Board has to assume that the buildings are in conformance with all applicable laws and codes.

BOARD

MOVED By Mr. Gillick to grant a waiver from Site Plan Regulations, Section V.E (Detailed Plan)

SECOND By Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

MOVED By Mr. Gillick to grant a condominium conversion, conditioned upon having evidence from the applicant that there are no legal impediments to accessing the rear of the property and adding a note on the plan regarding access.

SECOND By Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

IV. CONSIDERATION OF MINUTES of February 21, 2007

Page 1 –30 High St - add that the Board asked and was informed that the building is handicap accessible.

MOVED by Mr. Lessard to accept the minutes as amended.

SECOND by Mr. Viviano

VOTE: 6-0-1 (McMahon)

MOTION PASSED

V. OTHER BUSINESS

- **State of NH – Office of Energy & Planning**
- **Spring Conference for Planning & Zoning Board Members**

Mr. Steffen described the conference. Board Members should let the Planner or the Secretary know if they wish to attend

▪ **Delvin Arnold (Baron Estates) – 111 Exeter Road
-Set Bond for Roadway Construction**

Mr. Steffen indicated that the Department of Public Works finds a bond amount of \$314,000, developed by Ross Engineering, acceptable for the roadway construction at that subdivision.

MOVED by Mr. Viviano to approve a bond set in the amount of \$314,000

SECOND by Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

• **Maplecroft Building & Development - Request for extension of conditional approval granted February 1, 2006 –18-20 Keefe Avenue.**

Mr. Steffen summarized the status of this project as relayed by John Kopka in a letter of February 27, 2007. He has had delays in getting approvals from New Hampshire DES and the US Army Corps of Engineers. This is his first extension.

MOVED by Mr. Workman to grant a one-year extension of conditional approval to Maplecroft Building & Development for Site Plan Review and Special Permit to Impact Wetlands Conservation District at 18-20 Keefe Ave. Extension granted to February 1, 2008.

SECOND by Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

• Letter from Jon True

Mr. Steffen went through a letter from Jon True regarding various administrative requirements. Also, all plans need to be stamped by a Fire Protection Engineer.

Mr. Gillick said there is a relatively new State Statute on this issue. It was determined that the Planner needs to research this further.

MOVED by Mr. Gillick to adjourn.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

Meeting adjourned at 8:56 PM.

Respectfully Submitted,
Barbara Renaud
Planning Board Secretary